

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Louis Merriweather,
Petitioner

vs

Case No. 1:02cv369
(Spiegel, Sr.J.; Hogan, M.J.)

Tim Brunsman,¹
Respondent

ORDER

On February 14, 2005, this habeas corpus action brought pro se pursuant to 28 U.S.C. § 2254 was closed based on a Court order granting petitioner's motion to voluntarily dismiss the petition without prejudice. (Docs. 37, 38). Instead of filing a new petition, petitioner filed a motion to reopen the case on September 16, 2005. (Doc. 39). This matter is now before the Court for ruling on that motion entitled "Petition For Renewal Of Writ Of Habeas Corpus Pursuant To 28 U.S.C. § 2254" (Doc. 39), as well as petitioner's motion to advance the cause (Doc. 40) which was also filed on September 16, 2005.

Petitioner's motion to reopen the case (Doc. 39) is GRANTED. In reopening the case, the Court assumes that petitioner is reasserting the grounds for relief alleged in the original petition filed on May 12, 2002 (Doc. 2), as amended on April 28, 2004 (*see* Docs. 17, 23), to which respondent has responded (*see* Docs. 9, 24, 27). To the extent petitioner seeks to raise new claims in his renewal application, he must file an

¹In the petition, petitioner properly named as respondent James Erwin, who was then Warden of Chillicothe Correctional Institution (CCI), where petitioner is incarcerated. However, as petitioner notes in a recent pleading (*see* Doc. 40), James Erwin was replaced by Tim Brunsman as CCI's Warden. Because Tim Brunsman is the individual who currently has custody of petitioner, the caption of this case is hereby changed to reflect the proper party respondent. *See* Rule 2, Rules Governing Section 2254 Cases in the United States District Courts, 28 U.S.C. foll. § 2254.

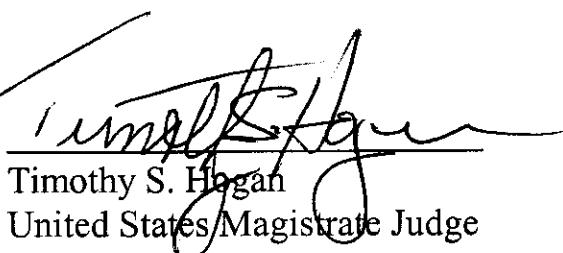
amended petition within twenty (20) days of the date of this Order.

In his motion to advance the cause (Doc. 40), petitioner essentially requests an accelerated ruling on his petition, which he claims is now ripe for ruling. The Court disagrees. The case is only now being reopened after having been closed based on petitioner's own motion for voluntary dismissal. There may be additional issues or claims which the parties may seek to raise in light of state court proceedings that only recently concluded. Petitioner's "Motion To Advance The Cause" (Doc. 40) is DENIED.

IT IS SO ORDERED.

Date:

9/28/05
cbc


Timothy S. Hogan
United States Magistrate Judge

J:\BRYANCC\2005 habeas orders\02-368reopen.exh-dismcase.wpd

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to: #348-451

Louis Merriweather
 Chillicothe Corr. Inst.
 PO Box 5500
 Chillicothe, OH 45601

COMPLETE THIS SECTION ON DELIVERY

A. Signature	<input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee
B. Received by (Printed Name)	C. Date of Delivery
D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
E. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
F. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	

2. Article Number
(Transfer from service label)

7001 2510 0008 6348 2832